

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

JOHN STEVEN OLAUSEN,

Petitioner,

vs.

JAMES BENEDETTI, *et al*,

Respondents.

3:10-cv-0388-LRH-RAM

**ORDER**

Petitioner, a state prisoner, is proceeding *pro se* in this habeas corpus petition pursuant to 28 U.S.C. § 2254. As previously explained in this court's order of January 14, 2010, (docket #18) in *John Steven Olausen v. James Benedetti*, 3:08-cv-00527-LRH-RAM, petitioner has filed multiple prior habeas corpus actions in this court, challenging the same conviction. *See* 3:01-cv-00499-ECR-RAM, 3:05-cv-00631-LRH-RAM, 3:06-cv-00069-PMP-VPC, and 3:06-cv-00257-LRH-VPC. The present petition challenges the same conviction previously challenged in these earlier petitions and raises legal issues previously addressed. The court therefore finds that this is a second or successive petition.

Under AEDPA's "gatekeeping" provisions, an applicant seeking to file a second or successive petition must obtain from the appropriate court of appeals an order authorizing the district court to consider the application. A court of appeals may grant such an order only if:

(A) the applicant shows that the claim relies on a new rule of constitutional law made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(B)(I) the factual predicate for the claim could not have been discovered

1 previously through the exercise of due diligence; and

- 2 (ii) the facts underling the claim, if proven and viewed in the light of the  
3 evidence as a whole, would be sufficient to establish by clear and  
4 convincing evidence that, but for constitutional error, no reasonable  
fact finder would have found the applicant guilty of the underlying  
offense.

5 28 U.S.C. § 2244(b)(2)(A)-(B). Petitioner has not provided the court with an order authorizing this  
6 court to consider the present petition. Accordingly, the court will not do so.

7 **IT IS THEREFORE ORDERED** that the Clerk of the Court shall **FILE** the petition.

8 (Docket #1-1.)

9 **IT IS FURTHER ORDERED** that this petition for writ of habeas corpus is **DISMISSED**  
10 without prejudice as an unauthorized second or successive petition. The Clerk of the Court is  
11 directed to enter judgment for respondents and close this case.

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13 DATED this 10th day of August, 2010.



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17 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE